

MIDDLETON, J., IN CHAMBERS.

NOVEMBER 27TH, 1912.

REX v. BEVAN.

Intoxicating Liquors—Liquor License Act—Sec. 111, as Amended by 2 Geo. V. ch. 55, sec. 9—Construction of—Local Option Beer—Beer Pump—“Appliances” and “Signs”—Reasonable Belief—What Constitutes an Offence under the Act.

Motion to quash a conviction made by the police magistrate of Hamilton under section 111 of the Liquor License Act, as amended by 2 Geo. V. ch. 55, sec. 9.

J. Haverson, K.C., for the defendant.

J. R. Cartwright, K.C., for the prosecutor.

MIDDLETON, J.:—Section 111 of the Liquor License Act as it stood before the amendment of 1912 was an eminently reasonable and easily understood provision. In effect it provided that the existence of a bar in any unlicensed premises and the display of liquor therein should be *primâ facie* evidence of unlawful sale.

The amendment makes that which was theretofore evidence of an unlawful sale “an offence against this Act;” and this makes it necessary to examine the statute with great care to ascertain precisely that which is raised from the rank of mere “evidence,” and constituted “crime.”

I pass by the very awkward and almost unintelligible form of the section, and endeavour to ascertain the real meaning. The section reads: “The fact of any person . . . shall be guilty of an offence against this Act.” I assume that this may be read as though it provided that any person who does the thing mentioned shall be guilty, etc.

The things so rendered unlawful are “the keeping up of any sign . . . or having . . . a bar or place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of liquor, or that liquor is sold or served therein . . .”

“Liquor” in this Act means intoxicating liquor; and it is lawful to sell liquors that do not contain more than two and a half per cent. proof spirit, even if such liquors resemble in appearance and taste liquors that ordinarily contain more than the stipulated amount of alcohol. This has led to the manufacture of what in the evidence is called “Local Option beer.”